

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

1557

CA 10-00370

PRESENT: SCUDDER, P.J., SMITH, GREEN, PINE, AND GORSKI, JJ.

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DIANE MARTINEZ, PLAINTIFF-RESPONDENT,

V

ORDER

CHARLES D. DUNKEL, DEFENDANT-APPELLANT.

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COHEN & LOMBARDO, P.C., BUFFALO (JAMES J. NASH OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

PAUL R. DIDIO, BUFFALO, FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Kevin M. Dillon, J.), entered January 5, 2010. The order granted the motion of plaintiff to vacate an order of dismissal.

It is hereby ORDERED that the order so appealed from is  
unanimously affirmed without costs.

Entered: December 30, 2010

Patricia L. Morgan  
Clerk of the Court